IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 25142 of 2004

Between:

T. Subha, W/o. Rajender Singh,
R/o. Shekkala Village, Gollapalli Mandal, Karimnagar

District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Jagtial, Karimnagar District.
2 The Mandal Revenue Officer, Gollapalli Mandal,

Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the proceedings No. A/2105/2004 and the proceedings of Show-cause notice No. G/2105/2004, dt. 23-12-2004 of the Revenue Divisional Officer, Jagtial, Karimnagar District, as being arbitrary, illegal, unconstitutional apart from being violative of principles of natural justice and also violative of Sub-clause (4) of Clause-5 of A.P.State Public Distribution System Control Order, 2001 and consequently set aside the same.

Counsel for the Petitioner: MR.D.BHASKAR REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court at the admission stage made the following :

ORDER:

The petitioner was appointed as a Fair Price Shop Dealer for Shekkala Village of Gollapalli mandal, Karimnagar District, in the year 1999. On 23.12.2004, the 1st respondent issued a show cause notice requiring the petitioner to submit her explanation, within seven days from the date of receipt of the notice, as to why the authoristaion shall not be cancelled in view of the allegations referred to therein. On the same day, the 2nd respondent issued an order suspending the authorization of the petitioner. The petitioner challenges the order of suspension in this writ petition.

Learned counsel for the petitioner submits that the 1st respondent suspended the authorisation of the petitioner, on the basis of a report of the 2nd respondent, alleging that the petitioner had diverted 8.20 quintals of rice to black-market and that the stock register was not maintained from August 2004 onwards. He contends that there is no reference as to when the inspection is said to have taken place or whether any verification was done before arriving at the conclusions. He also submits that the order of suspension does not indicate that the suspension is ordered as a measure pending enquiry and in that view of the matter, it ought to have been preceded by an enquiry.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the petitioner can avail the remedy of appeal, instead of rushing to the Court straight away.

It is true that the petitioner has an alternative remedy by way of appeal under Clause 20 of the A.P.Public Distribution System Control Order, 2001, against an order of suspension. The occasion for the petitioner to approach this Court straight away had

arisen because of the fact that the order of suspension contains several averments to the effect that the allegations against the petitioner are proved and that though the show cause notice was issued on the same day directing submission of explanation within seven days, the suspension was resorted to.

The order of suspension as well as the show cause notice are issued on the basis of a report, dated 22.12.2004, filed by the 1st respondent. The order does not disclose that any inspection was done by the 2nd respondent or that he required the petitioner to furnish any information. He has straight away recorded findings to the effect that the petitioner had diverted rice to black-market and committed certain other irregularities. Within one day, the 1st respondent issued a show cause notice and suspended the authorization. Principles of fair play and equity demand that the 1st respondent should have waited for the period of one week for submission of explanation of the petitioner and then could have proceeded to pass orders after considering the explanation that may be submitted by the petitioner. It is not as if the petitioner is supplied the essential commodities through out the month, on every day. The supplies to the dealer, who is the petitioner, take place once in a month. Nothing prevented the 1st respondent from withholding the stocks for a period of one week and to take necessary steps thereafter. From the purport and timings of the order, this Court gains impression that the action was taken at the behest of someone else. It is not a case where any stocks entrusted to the petitioner were found with any third party in contravention of relevant provisions of law.

For the foregoing reasons, the writ petition is allowed and it is directed that the order of suspension passed by the 1st respondent shall remain in abeyance, till he considers the explanation of the petitioner and passes appropriate orders, duly taking the same into account. If the petitioner has not submitted her explanation, she shall submit the same within five days from today. It shall be open to the respondents to withhold supplies to the petitioner for a period of ten days, during which time, it shall be open to the 1st respondent to pass an order in pursuance of the show cause notice. If no orders are passed within that time, the petitioner shall be supplied with the commodities. There shall be no order as to costs.

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31.12.2004

Note:

Issue C.C. in two days.

(B/o)

JSU

To

1 The Revenue Divisional Officer, Jagtial, Karimnagar District.
2 The Mandal Revenue Officer, Gollapalli Mandal,

Karimnagar District.

3 2CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

4 2CD copies